



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/226,593	01/06/99	KRAMPOTICH	22678-473

QM1170607

PALMATIER SJOQUIST
VOIGT AND CHRISTENSEN P A
SUITE 5005
333 WASHINGTON AVENUE NORTH
MINNEAPOLIS MN 55401

EXAMINER
FOSTER, J

ART UNIT
3728

PAPER NUMBER

DATE MAILED: 06/07/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/226,593

Applicant(s)
Krampotich et al.

Examiner
J. Foster

Group Art Unit
3728



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 1-12 and 16-20 is/are allowed.

☒ Claim(s) 13 is/are rejected.

☒ Claim(s) 14 and 15 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3728

1. Claims 1-12 and 16-20 are allowable over the prior art.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kos (4,880,116). In the reference of Kos, the enclosure includes wafer engaging slots at spacers 32a-32n, a door/lid at 240 (embodiment of Figs. 20,21) and first and second cushions at 241,242 (Figs. 20,21). The cushions are attached to the interiorly facing side of the door/lid. The cushions include fingers at leaves 243a-243n and 244a-244n. The fingers of cushion 241 are alternated with the fingers of 242 in such a manner that the wafers engaged by the first cushion are different than the wafers engaged by the second cushion.

Although the reference of Kos does not disclose the wafer receiving slots 32a-32n as being horizontally oriented and vertically stacked or the enclosure opening as being a front opening closed by an upright door which has upright first and

Art Unit: 3728

second cushions that engage horizontal wafers, as claimed by Applicant, the difference between what Kos discloses and what Applicant claims in claim 13 is merely one of orientation of the enclosure and contents. While the door of Kos is horizontal and the engaged wafers of Kos are vertical, the container of Kos with the contents thereof is capable of being rotated to an orientation in which one of the end walls (e.g., 28 or 29) is bottommost and the door 240 is frontmost since the enclosure is portable. The change in orientation would not appear to change significantly the function of the enclosure of Kos, especially since the wafers are immobilized against movement by the cushions and the slots, and this does not change by holding the wafers horizontally instead of vertically. It has been held that merely rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Accordingly, inasmuch as the function is not changed, it would have been obvious to have rotated the enclosure of Kos to any orientation, even the orientation that is claimed by Applicant.

4. Claims 14 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. For contacting the PTO by phone, the following contact numbers may be used:

For tracking of papers and association of papers with cases --
Clerical supervisors:

Ebony Smith (703)305-3570

For matters regarding examination -- Examiner:

Jim Foster (703)308-1505

Application/Control Number: 09/226,593

Page 4

Art Unit: 3728

For faxing of correspondence:

Draft amendments only-(703)308-7769

(Examiner should be notified of fax)

Formal correspondence-(703)305-3579 or 305-3580

For petitions:

Before the Examiner . (703)308-1505

Before the Director . (703)308-3872


Other petitions . . . (703)305-9282

For matters regarding patent assignment:

(703)308-9723

For matters regarding Licensing and Review:

(703)306-4187


JIMMY G. FOSTER
PRIMARY EXAMINER
GROUP 3720
6/1/99

JGF
June 1, 1999